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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,919	01/10/2004	Syde A. Taheri	1577-42	8233
44190	7590	02/07/2006	EXAMINER	
WALTER W. DUFT LAW OFFICES OF WALTER W. DUFT 8616 MAIN ST SUITE 2 WILLIAMSVILLE, NY 14221			WEBB, SARAH K	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/754,919	Applicant(s) TAHERI, SYDE A.	
	Examiner Sarah K. Webb	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 8-19 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 20-34, and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 35 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species (Figure 2), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/21/05. The specification only discloses the drawstring as being located at one end of the stent.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1,2,4-7, 29,30,32,33,34, and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent App. Pub. No. 2003/0040771 (Hyodoh et al.).

Hyodoh discloses different types of occluding stents in Figures 33a - 35 that substantially or completely block blood flow (paragraph 227). The occluders can be formed from a variety of bio-absorbable materials, such as polylactic acid (see paragraphs 31, 32, 209,212, and 213). The blocking portion can be located at either the proximal or distal end of the body. Hyodoh explains that a thrombogenic material may be enclosed within the lumen of the frame to aid in blocking blood flow (paragraph 229). Further a polymeric blocking material may cover the body of the occluder (paragraph 230 and Figure 34). Hyodoh states that the ends of the occluding device may be held together by any suitable means, such as a filament, suture, or wire (paragraphs 231 and 235). This is considered to meet the limitation "*drawstring closure system.*"

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 20-34, and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Pub. No. US 2003/0229366 (Reggie et al.) in view of Hyodoh et al.

Reggie discloses an occlusive stent that includes a stent body (12) and an occluding material (14) attached to one end. Compression band (20) serves as a means for closing off the end of the occluding material (paragraph 16). The closure is adjustable between an open configuration in which a guide wire passes through the occluding end, and a closed configuration that blocks blood flow [0016].

Reggie states that the stent can be made of any suitable metal or plastic material (paragraphs 6 and 15), but fails to state that the material can be bioabsorbable. Hyodoh discloses embodiments of a similar device in Figures 33A-35 that includes a stent body with at least one closed end that may be used as an occluder (paragraphs 21, 41, and 42). Hyodoh teaches that these occluding devices can be formed of biodegradable materials, such as polylactic acid (PLA) [0031-0032]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the Reggie device from a biodegradable polymer, such as PLA, as taught by Hyodoh, as it is within the level of ordinary skill in the art to form stents from different materials.

Regarding claims 32 and 40: Reggie fails to include a drawstring closure system at the closed end of the stent. Hyodoh teaches that a closed end of an occluding device may be held together by any suitable means, such as a filament, suture, or wire (paragraphs 231 and 235). Further, Hyodoh teaches that a drawstring system can be formed at one end of a stent, as shown in Figure 12. Hyodoh explains in paragraph 338 that a monofilament (or drawstring) is threaded through small loops at one end of the stent. Pulling on the drawstring closes that end of the stent. Since the band (20) and drawstring system perform the same function of adjustably closing one end of a stent, they are considered to be functionally equivalent. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a drawstring system at the closed end of the Reggie stent, as taught by Hyodoh, as this is simply a substitution of functionally equivalent systems.

Response to Arguments

4. Applicant's arguments filed 12/2/05 have been fully considered but they are not persuasive. During the interview, the discussion of Hyodoh was limited to the stent in Figure 12. Although the claims overcome a 102 rejection under the stent in Figure 12, Hyodoh discloses occlusive devices that meet the claim limitations.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,090,125 (Horton) discloses a biodegradable occlusive device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW
2/1/06



JULIAN W. WOO
PRIMARY EXAMINER